

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CLENNIE MANNING,

:

Petitioner,

v.

Case No. 3:15-cv-006

WARDEN, ROSS

JUDGE WALTER H. RICE

CORRECTIONAL INSTITUTION,

:

Respondent.

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #14); OVERRULING PETITIONER'S OBJECTIONS THERETO (DOC. #15); SUSTAINING RESPONDENT'S MOTION TO DISMISS HABEAS PETITION (DOC. #8); DISMISSING PETITION FOR "WRIT OF MANDAMUS" (DOC. #1) WITH PREJUDICE; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND AGAINST PETITIONER; DENYING CERTIFICATE OF APPEALABILITY AND LEAVE TO PROCEED *IN FORMA PAUPERIS*; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz, in his April 6, 2015, Report and Recommendations, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing, Doc. #14, in its entirety.

Petitioner's Objections to the Report and Recommendations, Doc. #15, having been electronically filed on April 28, 2015, are not only untimely, but they lack merit. The Court notes that, regardless of whether Petitioner's constitutional

rights were violated, his claims are clearly barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d)(1). Petitioner's Objections, Doc. #15, are therefore OVERRULED.

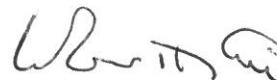
For the reasons set forth by Magistrate Judge Merz, the Court SUSTAINS Respondent's Motion to Dismiss Habeas Petition, Doc. #8, and DISMISSES the Petition, Doc. #1, WITH PREJUDICE.

Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be objectively frivolous, Petitioner is denied a certificate of appealability, and is denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: April 29, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE